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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1025/93
M.P. No. 1376/93

New Delhi this day of 13th January, 1994

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

Shri Subedar Ram
S/o Shri Pila Ram,
9/1893 Gali No. 3,
Keilash Nagar,
New Delhi-110 031.

... Applicant

(By Advocate : Shri S.R. DWIVEDI)

vs.

1. Union of India through
The Secretary,
Dept. of Posts,
Ministry of Communications,
New Delhi-110 001.
2. The Chief Post Master General,
Delhi Postal Circle,
Meghdoot Bhavan,
New Delhi-110 001.
3. The Senior Superintendent,
Delhi Sorting Division,
RMS Bhavan,
Delhi 110 006.

... Respondents

(By Advocate: Ms. Pratima Mittal, Proxy
counsel for Shri K.C. Mittal)

O R D E R (Oral)

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant was employed as Group 'D' Employee in the Department of Posts in the year 1965 representing himself as General Category candidate. He was subsequently promoted to the post of Sorting Assistant on the basis of his representation that he belongs to Scheduled Tribes category and was promoted as such. On this representation of the applicant, the respondents proposed to hold a disciplinary proceedings against the applicant but he has never been served with any memo of chargesheet or accusation. The applicant has worked in the scale of Rs. 975-1660 and

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E.B. was due in 1989 at the stage of Rs. 1180/-. The applicant made representations for crossing his E.B. which fell due in October, 1989 but the respondents did not favour him in any reply nor passed any order for crossing the E.B. The applicant in this application which was filed in May 1993 has prayed for a direction that the respondents be ordered to cross E.B. with effect from October 1989.

2. A notice was issued to the respondents who filed the reply stating that because of the proposed disciplinary proceedings on account of the applicant representing himself as S.T. Candidate, while appearing in the Department LSC examination was passed as such no action in regard to crossing of EB of the applicant could be taken and the applicant could not be granted E.B.

3. The learned counsel for the applicant was heard in pre-lunch session and the pass over was given as the counsel for the respondents prayed for time. The matter was argued after lunch. Ms. Pratima Mittal, Proxy counsel for Shri K.C. Mittal, learned counsel of the respondents appeared and informed that the pleadings in the counter be considered.

4. I have gone through the record. The learned counsel for the applicant argued that the applicant belongs to the "Gond Caste" which was subsequently declared as Schedule Caste. The applicant when applied for appointment in Group 'D' did not take any advantage and appeared in selection as the other category. When the applicant learnt all this about coming the caste under ST/SC category and the benefits thereof, he in pursuance of the scheduled castes and scheduled tribes Orders (Amendment) Act, 1976 took the examination in 1991 for LSO as a ST candidate. However, this is besides the point. The applicant has not been served with any memo of chargesheet. The

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respondents should have considered the case of crossing E.B. in due turn as and when it was due. Even in a case where the DPC finds any disciplinary proceeding pending, the matter is considered but placed in a sealed cover. By non considering the case of the applicant, the applicant has gone by default and stands prejudiced. The respondents have no case as to whey they have withheld E.B. since October, 1989.

5. The application therefore is disposed of with the direction to the respondents to constitute a proper D.P.C. or to consider the case of the applicant according to the rules/instructions for crossing the E.B. with effect from October, 1989 and only ACRs etc. prior to this period be considered. In case the applicant is found fit he should be allowed the E.B. from the date and arrears thereof. The respondents to comply with the instructions within a period of 3 months from the receipt of the copy of the judgement with liberty to applicant to assail the finding thereof if so advise. if still aggrieved.

J. P. Sharma

(J.P. SHARMA)
Member (J)

Mittal